

Message

From: Wells, Ellen [Wells.EllenP@epa.gov]
Sent: 6/5/2015 8:54:25 PM
To: Madigan, Andrea [Madigan.Andrea@epa.gov]
Subject: regarding the tracking report (can ignore until next week if you want)
Attachments: Admin docket vs Tracking Report.xlsx; RE: Need status update for Kinnear Store, Docket SDWA-08-2009-0040; Open assignments at 06-05-2015.xlsx

I know you're not really working today, so you can ignore this until next week.

But I wanted to get a lot of information in writing because I have been finishing updates and reviewing it a lot this morning.

First, here is the list of people from whom I have heard nothing since sending out the requests for updates on May 18:

Chalfant, Lensink, Livingston, Morris, Muller, Piggott, Ross, Sorrell, and Swanson.

I delivered the most recent information to everyone on either April 28 or 29. I gave them their information in whatever format they had previously indicated they prefer.

I know you are planning to talk about the report again at the staff meeting, so I just wanted to make the point that I try to do as much of the work for them as I can. I know how to use the administrative docket tracking system fairly well now. Before I sent out this latest batch of requests for updates, I had already made a comparison between the entire list for R8 and the tracking report. I attached a file here called "Admin docket vs Tracking Report.xlsx, which is one worksheet that I created by searching the docket for all R8, then copying that list into Excel. Then, as I hope is obvious, I started from the docket list and looked up each matter on the open assignments list. As usual, I created a color code to indicate the result of the comparison for each item. I had updated or added missing information by the time I sent out each attorney's section for updates. In some cases, I contacted either Jim or the attorney referenced in the filing to find out if they still considered that to be their case. And I had added whatever new filings had occurred for each case since the January updates. Also, once I felt like I had a good match between the report and the docket, I realized I could just go back once a week and add whatever new filings had occurred to the report. So I do that every Monday now.

Also, I skimmed almost all (I say almost because I could have missed some) of the filings to see if there was a penalty due, the due date, etc.

Since I learned how to check for payments, I follow when payments are made. I looked up any case where there was either a payment still due or where a penalty had just been assigned since the previous updates and recorded all of that information also.

The overall point I am trying to make here is that from my perspective, this report could/should be a helpful tool to each attorney in terms of increasing their ability to keep their work organized and tracked. From everything you and Jim and I have talked about regarding this report, I never got the impression that it was ever meant to be another burden for them. And as I have learned new information or new sources of information the longer I work here, the more I have been able to update matters myself. My goal would be to be able to do as much of that as possible so that all they have to do is review their list, make hopefully minor changes or additions since the last time, and send it back. So I am having a really hard time understanding the complete lack of response from some people. But I hope the perspective of using it as a helpful tool could be discussed in the meeting, as opposed to or in addition to the perspective of it being something that they were asked to do and just didn't.

Now for some technical questions, because we ended up not being able to get together the other day:

- 1) Regarding counting: There are two areas where I think I should make sure we are on the same page in terms of counting. First, for CERCLA – in some cases the matters are separated by OU and in others they are not. Obviously, for Henry's I have separated most of them by OU because there seems to be so much involved for each OU each one seems to cover such different type of work. For most of the other CERCLA attorneys, the matters are not separated by OU, although there might be information specific to each OU recorded under Status and Next Steps. I can't be sure if this has happened because Henry is so much more thorough in his reporting, or because he just has the biggest most complicated sites. Maybe everything is just bigger in Montana! Anyway, it seems like there might be a valid reason to list CERCLA matters that have multiple OUs that way consistently.
Second, for the noncase matters, I don't think there is a real problem but I just want to point out a couple things to make sure that counting them doesn't end up giving an inaccurate picture of LEP's work. After I finished inputting all of the information from the recent inquiry you sent out on noncase work, I realized that there are multiple projects/workgroups where more than one attorney is assigned to the same task. So when the Noncase assignments get counted, the total might include as many as three attorneys on the same assignment. I don't consider that a problem as long as whoever is looking at the reports realizes that those assignments are qualitatively and quantitatively different from actual cases / sites. I don't know if a footnote or something like that should be included each time those numbers are reported or if whoever is looking at the reports already would realize the differences. I think it is perfectly valid to count each attorney for each assignment in the total, because the numbers are not being combined with the regular assignments, and each attorney does make a separate contribution of time and talent to each project / workgroup. But if you have a different viewpoint, just let me know.
- 2) Back to Henry, did you want me to change anything in the way I edited/added his information? And do you think the ARCO matter should be listed separately, since it is included in the comments for each matter where it has had the effect of putting further action on hold?
- 3) When David Rochlin brought his updates to me, he questioned Ash Grove and Tesoro Refineries each being shown on two lines because each covers two states. I told him I listed them like that because in Excel (or any representation of data) there are fields, and each field is for one value. Of course, there are a list of values to choose from but generally if a field has more than one value for a record, the second record is added. He said he was just concerned because each one is really just one case. I thought about it more and realized that so far we have never given any report by state. If we are never going to be asked for numbers by state, I suppose it doesn't really matter and I could show them each as just one case. What do you think? I definitely want to keep separate lines for when there are two different Statutes being pursued against the same entity, but I don't think it's as big a deal to keep track of multiple states when the attorney is working on the matter as a single case.
- 4) Something that has come up multiple times, but most recently in this week's case screening, involves a violation/inspection being screened as a new matter when there is already the exact same name and statute on the report as an open case. You probably remember from this Monday that Jill Minter brought up at the end that I had asked about that in reference to the Kinnear Store PWS. Actually, I had emailed her pretty specific details several days before the meeting and she never responded. I have e-mailed her information in the past also (and cc'd Kim Pardue-Welch) and never had any responses to those either). Anyway, I don't know why she waited until the meeting to point out that a certain docket was closed instead of discussing it before the meeting. I could have shown her then that the docket she was going by was an earlier one than what I asked her about in the e-mail. Then after the meeting she sent me a message (I attached the whole thing here) to which Peggy also responded. My biggest question on this is still how to determine when a case is closed. I have asked several people about this in the past, and you have also updated the SOP on this, and said for REU: "The respondent has complied with all requirements set forth in the enforcement order and paid in full any assessed penalty." Peggy and at least

one other attorney told me that just because there is a “letter closing the AO” shown on the docket doesn’t necessarily mean that the matter is completely closed because there may still be compliance to be completed. Based on this combined information, I have decided that I am not going to call a matter closed unless the attorney specifically says that in their updates. And in this particular case, it had been on Peggy’s list for the past two reviews and it was not designated closed. If it turns out that whenever a letter closing the AO or AOC shows on the docket means that the matter is closed, then we already have a whole bunch of cases (about 30-35, where the status is highlighted pink on the open assignments sheet) that should be taken off the open list. And the SOP would have to be revised again.

I realize that I have drifted from one topic (screening cases again that are already on the list) to another (how to tell when a case is closed) but they are related in many instances. Basically, I am worried about reflecting an inaccurate number of cases based on not knowing when something should be closed, and also based on the disconnect between TEP and LEP on the whole issue of how things get counted.

I have attached the open list here. It is pretty big – when (if) you open it, you have to use the scroll bar at the bottom right to move across to column W, and it goes down to row 797. One last item (for this email anyway) – if you know exactly what you think should be available on the SharePoint site, I could get that uploaded. Basically, I need to know which fields (columns) you think should be shown, and do you want it separated by attorney? That would be my vote, but I could also show just one big list.

Ellen

Sincerely,
Ellen Wells
SEE
U.S. EPA, Region 8
1595 Wynkoop St.
Denver, CO 80202-1129
Phone: (303) 312-6049
Location: 6143

Notice: This message may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please delete the copy you received and do not print, copy, retransmit, disseminate, or otherwise use the information.
